



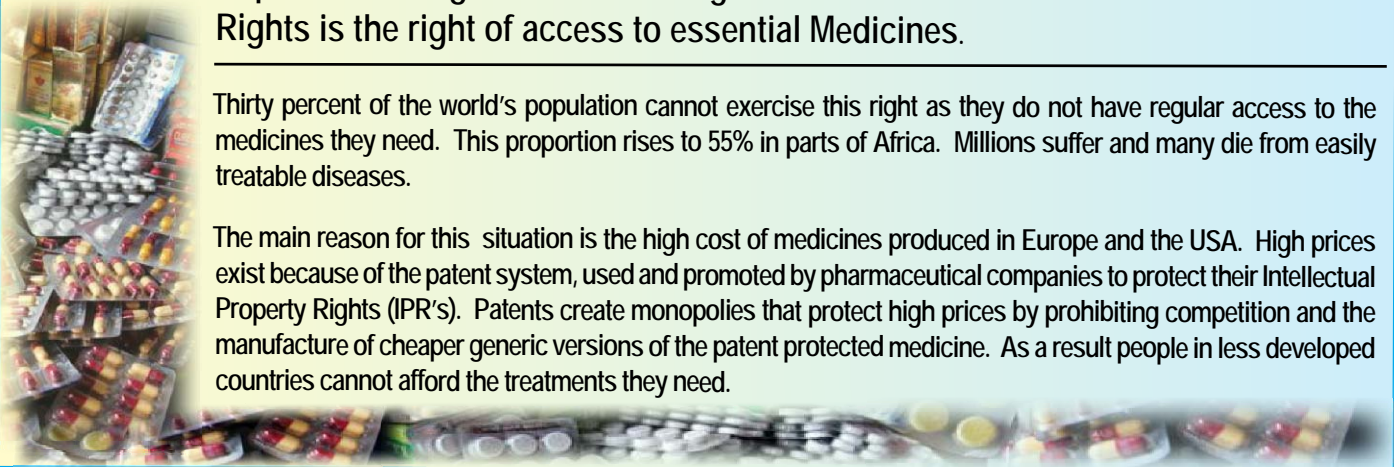
AFRICA - ACCESS TO MEDICINES

SMA JUSTICE Briefing No 9 "I came that they may have life and have it to the full." Jn 10:10

Implicit in the right to health recognised in the Universal Declaration of Human Rights is the right of access to essential Medicines.

Thirty percent of the world's population cannot exercise this right as they do not have regular access to the medicines they need. This proportion rises to 55% in parts of Africa. Millions suffer and many die from easily treatable diseases.

The main reason for this situation is the high cost of medicines produced in Europe and the USA. High prices exist because of the patent system, used and promoted by pharmaceutical companies to protect their Intellectual Property Rights (IPR's). Patents create monopolies that protect high prices by prohibiting competition and the manufacture of cheaper generic versions of the patent protected medicine. As a result people in less developed countries cannot afford the treatments they need.



Intellectual Property Rights

Are the rights that creators have to prevent others from using or reproducing their inventions. They can be in the form of copyrights, trademarks or, as in the case of medicines, patents.

Generic Drugs

A generic drug is a legitimately produced medicine that is the same as the original brand name product – it contains the same active ingredients but is not made by the company that first developed, marketed and often patented the drug.

Because generics are up to 80% cheaper than patented brand name products, they play an essential role in allowing access to medicines in the developing world. For example 90% of the medicines available in East Africa are imported generics while 80% of the drugs purchased by Medicines Sans Frontiers (MSF) are generics made in India. MSF provides free medical care in the developing world. Generic versions of drugs are largely responsible for the availability of affordable anti-retroviral drugs used to treat HIV/Aids. Generic versions of anti-malarial, anti-tuberculosis and antibacterial medicines are also very important in Africa.

Counterfeit Medicines

Are fakes whose packaging and appearance are very similar to genuine medicines but they may not have any active pharmaceutical ingredients. They are the result of deliberate criminal activity. Counterfeit medicines are widely available in Africa.



The Cost of Patents - too high for Africa

The recognition of Intellectual property rights, including patents on medicines, is now a standard condition in international trade agreements. Less developed countries have little choice but to accept the conditions imposed by wealthier trade partners, even when they limit the nation's ability to adopt healthcare suited to local needs and resources. Accepting patents means a choice between paying higher prices or just not having essential medicines.

The World Trade Organisation (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights, known as the TRIPS Agreement, requires member states to recognise patents, trademarks and copyrights. In the case of medicines this means that members agree not to manufacture or import cheaper generic versions.

In spite of attempts to make it more flexible **TRIPS protects the monopolies and profits of pharmaceutical corporations and prevents the availability of affordable medicines in Africa.** It has also spread patent protection to countries that produce generic versions of drugs. In 2005, India, one of the largest producers of generic medicines, bowed to pressure and began to recognise patents. India, therefore, will not produce generic versions of new drugs until their patents, which can last for up to twenty years, expire.

EU Double Standards - deny the right to health

While the policies of the EU regarding access to medicines in less developed countries are commendable, in practice they are contradicted by its trade agenda. This seeks to maximize revenue to EU business interests and economies - a double standard exists. Recent trade agreements between EU and African states have even attempted to impose what have been called "TRIPS Plus" conditions, i.e. even stricter conditions than in the original trade agreement such as the acceptance of longer patent periods than normal, thus delaying access to affordable generic versions of drugs even more in African countries.

According to Medicines Sans Frontiers and Oxfam "EU trade policies consistently threaten access to affordable essential medicines by seeking to entrench overreaching intellectual property rules".

In 2010 the Africa Faith and Justice Network, (AEFJN) of which the SMA is a member, has focused on highlighting the harmful

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contradiction between EU policy and practice in order to encourage a *de facto* acceptance of the view that the human right to health takes precedence over Intellectual Property Rights and the profits of pharmaceutical companies.

Obstacles, such as trade agreement conditions requiring the universal adoption of the patent system, should not be put in the path of developing countries who wish to protect the public health of their citizens by importing cheaper generic versions of medicines.

Another unjust double standard evident in developed producer countries is the fact that drugs made for export are not required to reach the same government regulated quality standards as medicines produced for domestic consumption. As a result many medicines available in Africa are substandard. EU policy places the onus on importing countries to ensure the quality of the drugs they import. The reality is that most developing countries do not have the means to check the standards of all the drugs they must import. **In justice, EU Governments should ensure that drugs produced for export and for domestic consumption be of the same quality.**

Other factors preventing access to Medicines

There are also reasons, other than cost, for the lack of access to medicines in Africa. Many of the medicines actually available are of poor quality. This can be due to a number of reasons. We have already mentioned the existence of substandard medicines produced for export using cheaper ingredients. In addition medicines sold in Africa can also be counterfeit, complete fakes with no

active ingredients. They may have expired, be out of date, withdrawn in developed countries and then dumped in Africa to be sold in local markets. There is also evidence that Medicines deemed unsafe or dangerous have continued to be imported and sold in Africa long after they were removed from sale in regulated western countries.

Forgotten Diseases - no profit no medicine. Yet another issue limiting the availability of medicines in Africa is the lack of new drugs specifically aimed at the so called "forgotten diseases" that affect the lives of millions of Africans. The World Health Organisation has identified fourteen of these. They include River Blindness, Bilharzia, Sleeping Sickness and others. They are "forgotten" because the people who suffer from them are poor and cannot pay the prices needed to generate the profits that drug companies want in return for their investment in research and development.

Only 1% of the drugs developed in the past 25 years have been specifically made to tackle the illnesses affecting millions of people in developing countries.

In recent times there are signs of hope. A number of different initiatives, that circumvent the profit driven patent system, are being undertaken to search for solutions to forgotten diseases. Research partnerships between Medicines sans Frontiers, the EU, the World Health Organisation, Universities etc are working to produce new treatments. Medicine patent pools are also being formed in which patent holders agree to allow generic versions of the medicines they developed to be produced in return for the payment of royalties. Patent pools will also allow for combinations of different drugs to be produced. This will be particularly useful in making badly needed and affordable medicines for the treatment of HIV/Aids available in Africa.

The Injustice of the Developed World

The abundance of medicines in the developed world and their absence in Africa is a glaring injustice. The cause of this is largely due to factors originating in the developed world.

It is Western Governments and business interests that call the shots when deciding the terms of interational trade agreements. By insisting on conditions such as the recognition of medicine patents they place access to essential medicines beyond the means of people in Africa.

It is Western Governments that fail to insist that the quality of medicines produced within their borders, whether for domestic or export use, be the same. As a result substandard medicines are common in Africa.

While the production of counterfeit drugs is a criminal activity driven by greed, it is the high cost of patent protected drugs that gives an incentive for criminals to produce look-alike fakes.

*Western business interests and pharmaceutical companies, who want to maintain the profit driven patent system, exert a disproportionate influence within the European Union and in the United States. In their own interests they influence the development of laws, policies, procedures that protect their investments but which have a direct, and usually negative, effect on the availability of medicines in Africa. **The lack of access to medicines in Africa is an injustice as a result of which many people are suffering and dying unnecessarily.***

God of Love, lay your healing hand on all who are sick.

Touch the hearts of those in positions of power so that they may ensure a fairer sharing of quality medicines that can bring healing.

Bless the efforts made in advocacy on behalf of people in poorer countries who cannot afford to buy medicines they need.

We ask this in Jesus, Our Healer and Saviour. Amen.

Prayer from the Africa Europe Faith and Justice Network, Irish Antenna